



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 7, 1998

Captain Robert Taylor
Amarillo Police Department
City of Amarillo
200 E. 3rd Avenue
Amarillo, Texas 79101-1514

OR98-2987

Dear Captain Taylor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 120318.

The Amarillo Police Department (the "department") received a request for a specified incident report, referenced by number 98-84526. In response to the request, you submit to this office for review a copy of the information at issue. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception and arguments you have raised and reviewed the submitted information.

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if:

(1) release of the information would interfere with the detection, investigation or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

¹In your letter to this office, you advise that "the case involves juvenile suspects and a sexual assault," however, a review of the submitted information does not support your claim. Therefore, under the facts presented, we need not consider the applicability of any other provision of law.

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

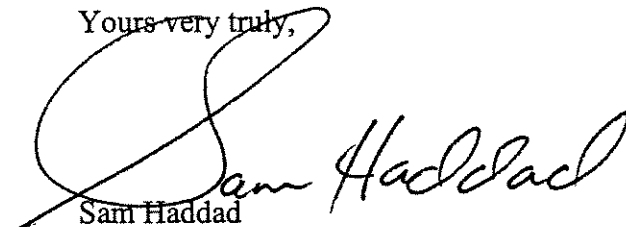
Gov't Code § 552.108. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication.

You inform this office that offense report number 98-84526 is excepted from disclosure, "because the case investigation has been **concluded**; it has **not been adjudicated** and therefore has not resulted in a **conviction or deferred adjudication** against any person." Based on your arguments and submitted information, we find that you have shown the applicability of section 552.108(a)(2) to the requested information, since the investigation *did not* result in conviction or deferred adjudication.

As you are aware, certain basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. *See* Gov't Code § 552.108(c). Section 552.108(c) provides that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Therefore, we conclude that, except for basic front page information, offense report number 98-84526 may be withheld under section 552.108(a)(2) of the Government Code, though the department also has discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A large, stylized handwritten signature in black ink, appearing to read "Sam Haddad". The signature is written over the typed name and title.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/mjc

Ref.: ID# 120318

Enclosures: Submitted documents

cc: Ms. Shannon Harris
4016 N.E. 32nd
Amarillo, Texas 79107
(w/o enclosures)